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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,745	03/24/2004	James A. Goldstein	60018300-0012	5417

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SONNENSCHN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER

MALLARI, PATRICIA C

ART UNIT	PAPER NUMBER
3735	

DATE MAILED: 08/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/807,745	GOLDSTEIN, JAMES A	
	Examiner	Art Unit	
	Patricia C. Mallari	3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-6,9-11 and 21-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7,8 and 12-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/24, 9/13, 4/1, 8/7</u> | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Applicant's election without traverse of Species III in the reply filed on 7/21/06 is acknowledged. The applicant identified claims 1-8 and 12-25 as reading on the elected species. However, the embodiment of figures 5-7 (species III) does not include an embodiment wherein the sensor is mounted on the support rather than the restraint. Therefore, claims 1-6 and 21-25 do not belong to species III. Claims 1-6, 9-11, and 21-25 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected species, there being no allowable generic or linking claim.

Claim Objections

Claim 17 is objected to because of the following informalities:

On lines 1-2 of claim 17, "of patient" should be replaced with "of a patient".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 8, and 12-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,516,289 to David. David teaches a support apparatus comprising a support 12 and a restraint 10 mounted on the support for engaging the patient's limb to

restrain movement of the limb, the restraint including a sensor 16, 18, 30, 38, 44 adapted to communicate with the patient's limb for measuring a physiological parameter of the patient on the limb when the limb is received by the restraint (figs. 2-5; col. 3, line 3-col. 4, line 25 of David). Since the restraint 10 is mounted on the support 12 and the restraint 10 receives the limb, the support therefore also receives the limb when the restraint receives it. In addition, the applicants should note that the limitation "for receiving at least a portion of the patient's limb thereon to support the limb during the procedure" is merely "intended use" language which cannot be relied on to define over the prior art, since David teaches all of the claimed structural limitations and their recited relationships. The support 12 of David is certainly capable of receiving a limb or a portion thereof as claimed.

Regarding claims 8 and 18, the sensor is a temperature sensor 44, blood pressure sensor 16, 18, electrocardiograph 30, and/or an oxygen saturation sensor 36 (fig. 2; col. 3, line 16-col. 4, line 24 of David).

Regarding claim 12 the restraint comprises a glove 10 adapted to receive at least a portion of the patient's limb for restraining movement of the hand (figs. 2 & 5; col. 3, lines 4-10 of David).

Regarding claims 13, 15-20, the glove comprises a first portion adapted to receive at least a portion of a first digit of the hand and a second portion separate from the first portion and adapted to receive at least a portion of a second digit of the hand, wherein the first and second portions are each a finger of the glove (figs. 2-4 of David). With further regard to claims 16 and 17, the sleeve extends from the glove and is

adapted to receive at least a portion of an arm of the patient's limb beyond the wrist for restraining movement of the arm (figs. 2-5; col. 3, lines 4-47 of David). With further regard to claims 17-20, the sensor 16, 18, 30, 36, 38, 44 is mounted on the glove or the sleeve and adapted to communicate with the hand and arm of the patient for measuring the physiological parameter when the arm is received by the sleeve (figs. 2-5; col. 3, line 16-col. 4, line 25 of David).

Regarding claim 14, the glove includes a sleeve adapted to receive at least a portion of the arm of the patient's limb for restraining movement and for measuring the physiological parameter on the arm (figs. 2-5; col. 3, lines 3-10 and lines 17-37 of David).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Application Publication 2002/0026121 to Kan teaches a support apparatus comprising a support 6 for receiving at least a portion of the patient's limb thereon to support the limb during the procedure and a restraint 5, 22 mounted on the support 6 for engaging the limb to restrain movement of limb, the restraint 5, 22 including a sensor 3, 4 adapted to communicate with the patient's limb for measuring a physiological parameter of the patient on the limb when the limb is received by the restraint (figs. 2 & 3; paragraphs 44-47 of Kan).

US Patent No. 5,688,208 to Plemmons teaches a support apparatus comprising a support 34 for receiving at least a portion of the patient's limb thereon to support the limb and a glove 26 mounted on the support and adapted to receive at least a portion of a hand of the patient's limb, wherein the glove has a first portion adapted to receive at least a portion of a first digit of the hand (a finger of the glove) and a second portion separate from the first portion (another finger of the glove) separate from the first portion and adapted to receive at least a portion of a second digit of the hand (figs. 1 & 2; col. 2, line 53-col. 3, line 6; col. 4, lines 3-4 of Plemmons).

US Patent No. 6,224,548 to Gopinathan et al. teaches a glove assembly 3, 5, 7, 9, 11, 13 adapted to receive at least a portion of a hand of a patient and a sleeve 3 extending from the glove and adapted to receive at least a portion of an arm of the patient. A sensor 40a-g, 54, 64, 70 is mounted on at least one of the glove and sleeve and is adapted to communicate with the patient for measuring the physiological parameter when the arm is received by the sleeve (figs. 2 & 3; col. 3, line 66-col. 4, line 65; col. 7, lines 60-67 of Gopinathan).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Charles A. Marmor, II
Charles A. Marmor, II
SPE Art Unit 3735